

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

Applicant's or agent's file reference 02577E50	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/IT 02/00630	International filing date (day/month/year) 03.10.2002	Priority date (day/month/year) 03.10.2002
International Patent Classification (IPC) or both national classification and IPC A47J31/40		
Applicant TUTTOESPRESSO S.P.A. et al.		



- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 5 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 5 sheets.

- This report contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☒ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 21.04.2004	Date of completion of this report 13.12.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Novelli, B Telephone No. +49 89 2399-2864 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/IT 02/00630**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-10 as originally filed

Claims, Numbers

1-30 received on 18.10.2004 with letter of 18.10.2004

Drawings, Sheets

1/3-3/3 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

IV. Lack of unity of invention

1. In response to the invitation to restrict or pay additional fees, the applicant has:

- ☐ restricted the claims.
☐ paid additional fees.
☐ paid additional fees under protest.
☐ neither restricted nor paid additional fees.

2. ☒ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is

- ☐ complied with.
☒ not complied with for the following reasons:

see separate sheet

4. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:

- ☒ all parts.
☐ the parts relating to claims Nos. .

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-30
	No: Claims	
Inventive step (IS)	Yes: Claims	1-30
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-30
	No: Claims	

2. Citations and explanations

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see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. **PCT/IT 02/00630**

- 1) This Authority considers that there are 2 inventions covered by the claims indicated as follows:

- I: Independent Claims **1, 16**: device and method wherein at least one delivery port is provided between the wall of the piercing member and the edge of the outlet opening.
- II: Independent Claim **4**: device comprising means of controlling the deformation of the cartridge base wall.

Said inventions are not so linked as to form a single general inventive concept, as required by Rule 13.1 PCT.

- 2.1) In the case of entry in the regional phase before the EPO, the applicant is informed that the PCT application **WO-A-02/076279** published on 03.10.02 claims the priority date of 23.03.01. It has been supplied to the European Patent Office in one of its official languages and the national fee provided for in Article 22, paragraph 1 or Article 39, paragraph 1 of the Co-operation Treaty has been paid. The requirements of Article 158(2) EPC are thus fulfilled.

Its content as filed is therefore considered as comprised in the state of the art relevant to the question of novelty, pursuant to Article 54(3) and (4) EPC.

- 2.2) This earlier application shows (cf. page 5, line 16 - page 7, line 20; figures 1-2) a device and a method comprising all features of independent claims **1** and **16**.

Furthermore this earlier application shows (cf. page 7, line 21 - page 9, line 26; figs 3-8) a device comprising all independent claim **4** features.

The additional features of dependent claims **2, 7-10, 15-17, 22-25, 29, 30** are also disclosed in said earlier application.

Thus, said earlier application is prejudicial to the novelty of the subject-matter of claims **1, 2, 4, 7-10, 15-17, 22-25, 29, 30** of the present application insofar as the same Contracting States are designated.